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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,194	03/28/2001	Jan H. Labuschagne	TIMK 7938US	2895

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POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERS COURT DRIVE SUITE 200
ST. LOUIS, MO 63131-3615

EXAMINER

A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,194

Applicant(s)

LABUSCHAGNE, JAN H.

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 19-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The indicated allowability of claims 20-29 is withdrawn in view of the newly discovered reference(s) to Seguin (6168676). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 8-10, 19-20, 23-25, 27, 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogal et al (5226971) in view of Seguin (6168676), and Crisp et al (5876018).

Fogal et al discloses a portable facility, the facility being portable in the sense that it can be moved by a transport vehicle (inherently so), means within the enclosure for inspecting components of the bearing, more means within the enclosure for repairing defects in components of the bearing, means within the enclosure for lubricating the bearing, means for cleaning the bearing, the means for cleaning the bearing is located outside an enclosure, means for opening and closing a cage, a washer containing a solution for removing grease, the equipment for inspecting the bearing including a gauge that measures the diameter of a bore, equipment for repairing the bearing including a press, a lateral measuring machine, a polishing tool, a dust extraction system (126).

Fogal et al does not show the facility being an enclosure, spare races and rolling elements located within the enclosure to replace damaged races and rolling elements, spare cage in the

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enclosure for replacing an opened cage, the enclosure comprising an air-conditioning unit supported on the enclosure.

Crisp et al discloses having spare races and rolling elements on a portable facility to replace damaged races and rolling elements (col4 lines 43-65).

Seguin discloses refurbishing a wheel/rail with an enclosed facility.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Fogal et al to show the facility being an enclosure as taught by Seguin, spare races and rolling elements, spare cage located within the enclosure to replace damaged races and rolling elements and opened cage as taught by Crisp et al and the enclosure comprising an air-conditioning unit supported on the enclosure because it would enables the portable facility to seriously replace damaged races, rolling elements, and damaged cage at a remote site while ensuring the repair equipment is protected from the environment by an enclosure, and having an air-conditioning unit would protect workers within the enclosure from extreme hot/cold temperature.

Per claim 29, Fogal et al as modified shows the facility being mounted on a railcar.

4. Claims 5, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogal et al in view of Crisp et al and Seguin as applied to claim 4 above, and further in view of Bellas et al (3308845).

Fogal et al as modified shows all the claimed limitations except for the enclosure having at least one end through which access to the interior of the enclosure is obtained, a deck at said one end of the enclosure, the means for cleaning the bearing being on the deck.

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Bellas et al shows an enclosure having at least one end through which access to the interior of the enclosure is obtained, a deck(7) at said one end of the enclosure, the means for cleaning the bearing being on the deck.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Fogal et al's modified structure to show the enclosure having at least one end through which access to the interior of the enclosure is obtained, a deck at said one end of the enclosure, the means for cleaning the bearing being on the deck because it would allow for the easy disposal of unclean liquid.

5. Claims 6, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogal et al in view of Crisp et al and Seguin as applied to claim 2 above, and further in view of Bellas et al (3308845).

Fogal et al as modified shows all the claimed limitations except for the enclosure contains stations at which the means for inspecting, repairing defects, lubricating the bearings are located, the enclosure having side walls and the stations are located along the side walls, a center aisle separates the stations along each side wall.

Bellas et al shows the enclosure contains stations (figure 5) at which the means for inspecting, repairing defects, lubricating the bearings are located, the enclosure having side walls and the stations are located along the side walls, a center aisle separates the stations along each side wall.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Fogal et al's modified structure to show the enclosure contains stations at which the means for inspecting, repairing defects, lubricating the bearings are located, the

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enclosure having side walls and the stations are located along the side walls, a center aisle separates the stations along each side wall because the arrangement would enable easy access to equipment required to service a structure as taught by Bellas et al.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fogal et al in view of Crisp et al and Seguin as applied to claim 1 above, and further in view of Bellas et al (3308845).

Fogal et al as modified shows all the claimed limitations except for the enclosure having ends through which access to the interior of the enclosure is obtained, doors attached to the side walls for closing the ends of the enclosure.

Bellas et al shows the enclosure having ends through which access to the interior of the enclosure is obtained, doors attached to the side walls for closing the ends of the enclosure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Fogal et al to show the enclosure having ends through which access to the interior of the enclosure is obtained, doors attached to the side walls for closing the ends of the enclosure because it would easy access and opening/closing of the enclosure as taught by Bellas et al.

7. Claims 21-22, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogal et al (5226971) in view of Seguin (6168676), and Crisp et al (5876018).

Fogal et al as modified shows all the claimed limitations except for the facility comprising spare seals located within the enclosure, a fixture which shines a light on the inner race for inspecting the races, a hand-held grinder.

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It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Fogal et al to the facility comprising spare seals located within the enclosure, a fixture which shines a light on the inner race for inspecting the races, a hand-held grinder because having spare seals would enable replacement of bearing seals which damaged, having a fixture with a light for inspection would have been obvious to one having ordinary skill in the art as light fixture is a well known utility device to assist a technician/machinist to inspect a repaired part, and a hand-held grinder would enable a technician/machinist to easily grind off damaged/rough surfaces to enable the achievement of a smooth finished surface.

Response to Arguments

8. Applicant's arguments with respect to claims 1-12, 19-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows methods of refurbishing rail wheels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

4/18/04